

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Consolidated Recycling, Inc.
c/o Mr. David E. Carson, Registered Agent
1806 St. George Drive
Schererville, IN 46375

Re: Request for Information Pursuant to Section 104(e) of CERCLA
for both Bi-State Products and I. Gurman and Sons, Inc. Sites
in Terre Haute, Indiana

Dear Sir:

The U.S. Environmental Protection Agency (U.S. EPA) is investigating the Bi-State Site at 118 Elm Street, and I. Gurman and Sons, Inc. (a/k/a Gurman Container and Supply Corp. Site) at 800 North Third Street (the Sites) in Terre Haute, Indiana. The U.S. EPA believes that you may have information that is relevant to the investigation of contamination at the Sites. Enclosure 1 is a summary of the history of these Sites and the results of U.S. EPA's investigation.

The U.S. EPA asks that you provide information and documents relating to the contamination of the Sites. Please respond completely and truthfully to this Information Request and its questions in Enclosure 2 within thirty days of your receipt of this letter. Instructions for completion of this response are in Enclosure 3; definitions of terms used in this Information Request and its questions are in Enclosure 4.

You may consider some information that we request as confidential.

If you wish to assert a privilege of business confidentiality, you must respond to the question and advise U.S. EPA that you request that the Agency treat the response as confidential business information. Directions to assert a claim of business confidentiality are in Enclosure 5.

The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq., commonly referred to as CERCLA or

Superfund gives the U.S. EPA the authority to:

1) assess contaminated sites, 2) determine the threats to human health and the environment posed by a site, and 3) clean up those sites. Under § 104(e) (2) of CERCLA, U.S. EPA has authority to gather information and to require persons to furnish information or documents relating to:

A. The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility;

B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;

C. The ability to pay the costs of the clean up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e) (5) of CERCLA, as amended. Failure to respond and failure to justify the non-response can result in similar penalties under this Section. Further, Section 104(e) (5) authorizes the United States to seek penalties from a federal court of up to \$27,500 for each day of continued non-compliance. The U.S. EPA considers non-compliance to be not only failure to respond to the Information Request, but also failure to respond completely and truthfully to each question in the Information Request.

The provision of false, fictitious or fraudulent statements or misrepresentations may subject you or your firm to criminal penalties of up to \$10,000 or up to five 5 years imprisonment, or both, under 18 U.S.C. § 1001.

The U.S. EPA has the authority to use the information requested in an administrative, civil, or criminal action.

This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501 et seq.

Return your response to U.S. EPA within 30 days of your receipt of this Information Request. Mail your response to:

Carlton D. Cuffman
U.S. Environmental Protection Agency
Region 5 (SR-6J)
77 West Jackson St.

Chicago, IL 60604-3590

If you have questions about a legal matter please call our attorney,
| Marcy A. Toney at (312) 886-3186. Address all other questions to
Carlton Cuffman at (312) 353-3191.

We appreciate your effort to respond fully and promptly to this
information request.

Sincerely,

Margaret E. Herring, Acting Chief
Remedial Enforcement Support Section

Enclosure: 1. Site History
2. Questions
3. Instructions
4. Definitions
5. Confidential Business Information
6. U.S. EPA Small Business Resources
Information Sheet

bcc: J. Sleboda, SRF-5J
F. Dababneh, SR-6J
M. Toney, C-14J
E. Olson, C-14J

ENCLOSURE ONE

SITE HISTORY

The Bi-State Site is located at 118 Elm Street, Terre Haute, Indiana.

Consisting of two adjacent parcels, the land currently has a warehouse, office building, loading area and several above-ground storage tanks. Texaco Oil Company used the land for industrial purposes from 1949 until 1979 when the land was purchased by Machine Tool Service. In 1990, Machine Tool Service sold the property to the Valvoline Oil Company, now the Ashland Oil Company. Texaco and Ashland both used the site for re-refining used motor oil.

The title search identified the property as follows:

Lots 1,2,3,6,7, and 8 in Block 7 in Linton's Additon, a subdivision of Out Lot 2, of the Original Out Lots of the Town, now City, of Terre Haute, in Vigo County, Indiana.

Adjacent to the Bi-State Site is the I. Gurman and Sons, Inc. Site, located at 800 North Third Street, Terre Haute, Indiana.

The Site, comprised of three adjacent tax parcels, extends north to Locust Street and occupies an entire city block. Occupying the Site are an office-warehouse building, a container storage building, a container reconditioning and processing building, and extensive drum storage areas. Still an active facility, it is used to recondition barrels and other containers (both steel and plastic).

To the north of the Site is a university park/recreational area; to the east, a commercial and residential area; to the south and west, an industrial area.

I. Gurman and Sons Inc., began operations at the Site during 1922 engaged in repairing and reconditioning wooden stave barrels. From 1930 to 1980, the primary business activity was the sale and reconditioning of steel barrels. Since 1980, the primary activity has been the sale of paper and plastic containers. Cleaning and reconditioning of customer owned drums has become secondary.

ENCLOSURE TWO

INFORMATION REQUESTS

1. Did you ever use, purchase, store, treat, dispose, transport or otherwise handle any materials at either Site? If the answer to the preceding question is anything but an unqualified "no", identify:
 - a) the chemical composition, characteristics, physical state (e.g., solid, liquid) of each material;
 - b) who supplied you with such material;
 - c) how you used, purchased, generated, stored, treated, transported, disposed of or otherwise handled such materials;
 - d) when you used, purchased, generated, stored, treated, transported, disposed of or otherwise handled such materials;
 - e) where you used, purchased, generated, stored, treated, transported, disposed of or otherwise handled such materials; and
 - f) the quantity of such materials used, purchased, generated, stored, treated, transported, disposed of or otherwise handled by you.
2. State the dates, especially any time from 1982 to 1995, during which you owned, operated, or leased either Site and provide copies of all documents evidencing or relating to such ownership, operation, or lease arrangement (e.g., including but not limited to purchase and sale agreements, deeds, leases, etc.) and provide copies of all documents evidencing or relating to such ownership. Further, identify all supervisory personnel assigned to either or both the Sites during your firm's ownership, operation or lease of either Site and the tenure of each person discussed in the preceding sentence. For each person identified, describe to the best of your knowledge and belief, the duties and responsibilities of such person(s) and the tasks performed by each person identified.
3. Identify any and all concurrent or prior owners of each Site. For each prior owner, further identify:
 - a) the dates of ownership;
 - b) all evidence showing that they controlled access to the

Site; and

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- c) all evidence that a hazardous substance, pollutant, or contaminant, was released or threatened to be released at the Site during the period that they owned the Site.
- 4. Identify the prior operators, including lessors, of both Sites. For each such operator, further identify:
 - a) the dates of operation;
 - b) the nature of prior operations at the Site;
 - c) all evidence that they controlled access to the Site; and
 - d) all evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Site and/or its solid waste units during the period that they were operating the Site.
- 5. Provide copies of all local, state, and federal environmental permits ever granted for the facility or any part thereof (e.g., RCRA permits, NPDES permits, etc.).
- 6. Identify any persons who concurrently with the owner/operator exercised actual control or who held significant authority to control activities at each Site/facility/plant, such as:
 - a. partners or joint venturers;
 - b. any contractor, subcontractor, or licensor with any presence or activity on the Site; (service contractors, remediation contractors, management and operator contractors, licensor providing technical support to licensed activities;
 - c. any person subleasing land, equipment or space on Site;
 - d. any person with regular activities at the Site or who used easements, such as utilities, pipelines, and railroads, at the Site;
 - e. major financiers and lenders;

- f. any person who exercised actual control over any activities or operations at the Site or who held authority to control activities or operations at the Site; and

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- g. government entities that had proprietary (as opposed to regulatory) interest or involvement with regard to the activity on the Site/facility/plant;
7. Identify any legal or equitable interest that you now have, or previously had both Sites. Include information regarding the nature of such interest; when, how, and from whom such interest was obtained; and when, how, and to whom such interest was conveyed. In addition, submit copies of all instruments evidencing the acquisition or conveyance of such interest.
8. If you are the current owner and/or current operator, did you acquire or operate the Site or any portion of the Site after the disposal or placement of hazardous substances on or at either Site? Describe all of the facts on which you base the answer to the preceding question.
9. At the time you acquired or operated each Site, did you know or have reason to know that any hazardous substance, including but not limited to recycled motor oil, was disposed of on or at the Site? Describe all investigations of the Site you undertook prior to acquiring the Site and all of the facts on which you base the answer to the preceding question.
10. Describe the nature of your activities or business at the Site with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials, including but not limited to recycled motor oil, at each Site.
11. Identify all federal, state and local authorities that regulated the Site Operator and/or that interacted with the Site Operator. Your response must address all interactions and, in particular, all contacts from agencies/departments that dealt with health and safety issues and environmental concerns.
12. Describe all occurrences associated with violations,

citations, deficiencies, and/or accidents concerning the Site between and 1982 and 1995. Provide copies of all documents associated with such an occurrence.

13. Did Bi-State Products or I. Gurman and Sons, Inc. ever file a Hazardous Waste Activity Notification under the Resource Conservation and Recovery Act (RCRA)? If so, provide a copy of such notification.

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14. Did either the Bi-States Products or I. Gurman and Sons, Inc. ever have "interim status" under the RCRA? If so, and Bi-States Products or I. Gurman and Sons, Inc. do not currently Have interim status, describe the circumstances under which either firm lost interim status.

15. Provide all reports, information or data related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Sites. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

16. Describe the acts or omissions of any persons other than your employees, agents or those persons with whom you had a contractual relationship, that may have caused the release or threat of release of hazardous substances at the Site and identify such persons. In addition:

- a. Describe all precautions that you took against foreseeable acts or omissions of any such third parties and the consequences that could foreseeably result from such acts or omissions; and,
- b. Describe the care you exercised with respect to the hazardous substances found at the Site.

17. Identify all past and present solid waste management units (e.g., waste piles, landfills, surface impoundments, waste lagoons, waste ponds or pits, tanks, container storage areas, etc.) at both Sites. For each such solid waste management unit, provide the following information:

- a. a map showing the unit's boundaries and the location of

all known solid waste management units, whether currently in operation or not. This map should be drawn to scale, if possible, and clearly indicate the location and size of all past and present units;

- b. the type of unit (e.g., storage area, landfill, waste pile, etc.), and the dimensions of the unit;
- c. the dates that the unit was in use;
- d. the purpose and past usage of the unit (e.g., storage, spill containment, etc.);
- e. the quantity and types of materials (hazardous substances and any other chemicals) located in each unit;

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- f. the construction (materials, composition), volume, size, dates of cleaning, and condition of each unit; and
 - g. If unit is no longer in use, how was such unit closed and what actions were taken to prevent or address potential or actual releases of waste constituents from the unit.
18. Identify all leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at or from either Site. In addition, identify:
- a. when such releases occurred;
 - b. how the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred to or from any tanks, drums, barrels, or recovery units, and treated);
 - c. the amount of each hazardous substance, or contaminant released;
 - d. where such releases occurred;
 - e. any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
 - f. any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and

surface), or air testing undertaken; and

g. all persons with information relating to these releases.

19. Has any contaminated soil ever been excavated or removed from either Site? Unless the answer to the preceding question is anything besides an unequivocal "no", identify:

- a. the amount of soil excavated;
- b. the location of excavation;
- c. the manner and place of disposal and/or storage of excavated soil;
- d. the dates of soil excavation;
- e. the names and affiliations of persons who excavated or removed the soil;
- f. the reason for soil excavation;
- g. whether the excavation or removed soil contained hazardous substances and why the soil contained such substances;
- h. all analyses or tests and results of analyses of the soil that was removed from the Site; and
- i. all persons, including contractors, with information about (a) through (h) of this request.

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20. Provide all information, including evaluations, safety audits, and correspondence concerning insurance issues at the Sites.

21. Describe the waste generation history of the Site, including all controlled and uncontrolled releases of compounds, reactants, products, waste, and any other substance. In your response list all releases by compound, the amount of release and the circumstances surrounding said releases.

22. Describe all instances where either Site accepted waste from any company or person, or where the Site accepted substances which could be considered hazardous in their present form. Include the following in your response:

- a. a description of the waste sent to the Site;
- b. the types and quantity of the waste sent to the Site;
- c. the name of the person or company who transported the waste to the

Site;

- d. the name of the person or company who sent the waste to the Site;
- e. the names of the person or company who originated the waste sent to the Site;
- f. the date(s) such wastes were sent to the Site;
- g. the state (i.e., liquid, solid, or gaseous) of the wastes sent to the Site, and the manner in which the wastes were stored or disposed (i.e., drummed or uncontained, placed in lagoons, landfilled, placed in piles, etc.); and,

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- h. a description of what either Site would do with the waste once received.

23. For all companies, firms, facilities and individuals identified in response to information request 22, above, provide the following information:

- a. the location and address of each such company or person who sent such materials, including contact person(s) within said companies;
- b. shipping records pertaining to such materials sent by each such company or person, including but not limited to invoices, bills of lading, weight tickets, and purchase orders; and
- c. identification and location of all companies and individuals who transported said materials.

ENCLOSURE 3

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Identify each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the U.S. EPA to pursue penalties for failure to respond adequately to requests for submissions of required information.
5. In answering each question, identify all persons and contributing sources of information.
6. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or erroneous, you must notify U.S. EPA as soon as possible.
7. For any document submitted in response to a question, indicate the number of the question to which it responds.
8. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of the source.
9. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified

personnel properly gathered and evaluated the information submitted.

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Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

10. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, and the date and reason for the transfer or disposition.
11. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 4.

ENCLOSURE 4

Definitions

1. As used in this letter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
2. The term **person** as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. **The Sites** referenced in these documents shall mean the Bi-State Products Site and I. Gurman and Sons, Inc. Site located in Terre Haute, Indiana.
4. The term **hazardous substance** shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
5. The term, **pollutant** or **contaminant**, shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
6. The term **release** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.
7. The term **identify** means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
8. The term **identify** means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

9. The term ***identify*** means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
10. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R., Parts 260-280 and 300, in which case, the statutory or regulatory definitions shall apply.

ENCLOSURE 5

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting.

You cannot withhold information or records upon that basis. The Code of Federal Regulations at 40 C.F.R. Part 2, Subpart B, requires that the U.S. EPA afford you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as "confidential", you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential", and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;

3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;

4. Whether the U.S. EPA or other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;

6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(i). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future;

7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as 'confidential', your comments will be available to the public without further notice to you.